99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-782

MARLBORO COUNTY GENERAL HOSPITAL CHARITY, OF BENNETTSVILLE, SOUTH CAROLINA

AUGUST 11, 1986.—Committed to the Committee of the Whole House and ordered to be printed

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Mr. GLICKMAN, from the Committee on the Judiciary, submitted the following

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REPORT

U. S. GOVT. PUBS.
DEPOSITORY 376

[To accompany H.R. 3896]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3896) for the relief of Marlboro County General Hospital Charity, of Bennettsville, South Carolina having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

H.R. 3896 relieves Marlboro General Hospital Charity of Bennettsville, South Carolina of liability under section 609 of the Public Health Service Act (42 U.S.C. 291) upon a finding by the Secretary of the Department of Health and Human Services that the Hospital Charity has complied with the provisions of the bill.

The bill also provides a provision for penalties for any non-compliance of this legislation by the Marlboro County General Hospital Charity.

BACKGROUND

In 1962 and 1968, Marlboro General Hospital, Inc., a non-profit corporation received construction funds under the Hill-Burton Act. In exchange for the Hill-Burton construction funds, the hospital agreed to provide a reasonable volume of free health care to persons unable to pay and to make their services available to all persons in their geographic areas.

The obligation to provide free health care was to extend for a period of twenty years from the date the federally assisted program opened for service. In addition, if a hospital who received Hill-

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Burton funds sells to an entity which would not have been originally entitled to Hill-Burton funds (a for-profit corporation), the Government is entitled to recover a percentage of the funds distributed based on a statutory formula. The law provides that the recovery of these funds may be waived only if the purchaser of the Hill-Burton hospital agrees to establish an irrevocable trust in twice the amount of money owed to the Government. The funds must be used to provide indigent health care for area residents. Although the purchaser is the only party that may apply for a waiver, there is no obligation for the purchaser to do so.

Marlboro County General Hospital Charity (Charity) is a trust fund which was established from the proceeds of the sale of Marlboro General Hospital (MGH) to the Hospital Corporation of America (HCA).

In entering the sale agreement, HCA agreed not to turn away indigents and the Charity agreed to pay for indigent health care with the trust funds.

The Department of Health and Human Services maintains that the sale of MGH occurred within the 20-year period, that HCA has refused to apply for a waiver, and that HCA would not have been entitled to Hill-Burton funds. Therefore, the Department of Health and Human Services is seeking a recovery against the Charity of an undetermined amount between $350,000 and $500,000. Furthermore, the Department is opposed to this legislation because the seller and purchaser knew, or should have been aware, of the waiver requirements.

In considering this legislation, the Committee determined that the relief sought in H.R. 3896 implements the basic policy of the law. The trustees have always been willing to establish the trust in total compliance with the Hill-Burton waiver provisions. However, because they are the sellers, rather than the purchasers, current law prohibits them from obtaining a waiver. Without the relief this bill provides, the Charity will be forced to return funds which have been and continue to be used for their originally intended purposes of providing funds for health care services to persons unable to pay and in need of such care.

The provisions of the bill with which the Hospital must comply in order to be relieved of liability are: (1) the establishment of a trust to be used to provide health care to indigents; and (2) entering into an agreement with the Department of Health and Human Services to ensure future compliance with the free health care provisions of the Public Health Service Act.

The Committee favorably reports the bill, H.R. 3896, and recommends that it be passed by the House.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, June 11, 1986.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 3896, a bill "For the Relief of Marlboro County General Charity, of Bennettsville, South Carolina."

In summary, we oppose the bill. We generally oppose special bills to relieve health care facilities that received Federal construction assistance under the Hill-Burton program of the obligations they assumed as a condition of the assistance. The bill would waive the requirement that a transferee agree to continue carrying out the obligations of community care and of a reasonable volume of free care to those who cannot afford to pay.

Marlboro County General Hospital in Bennettsville, South Carolina, received Hill-Burton assistance on two occasions for a total of $181,190. The most recent project was completed in 1968. As a recipient of Hill-Burton funds, the hospital is obligated to provide a reasonable volume of free care for a period of 20 years, and to provide services to all persons who reside in the hospital's geographic area (the community service obligation). There is no limit on the duration of the community service obligation. In 1983 this hospital was sold to the for-profit Hospital Corporation of America. The proceeds of the sale were placed in trust, the income of which has been used to pay for indigent care. The bill would relieve Marlboro County General Hospital Charity (the trustee and successor to the transferor) of the obligation to pay back to the Federal Government a percentage of the Federal construction assistance formerly provided. This obligation arises because the transferee has not agreed to continue carrying out the Hill-Burton obligations.

Both the transferor and the transferee were, or should have been, aware of the legal requirements applicable when a hospital is transferred that formerly received Hill-Burton assistance. There appears to be no extraordinary circumstances to justify the waiver of the requirements that apply. In addition, the bill would make no provision for enforcement of the community service requirement.

We therefore recommend that the bill not be favorably considered.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

OTIS R. BOWEN,
Secretary.

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